



The Voice of Small Business

MICHIGAN

To: Honorable Members of the Senate Commerce Committee

From: Charles Owens, State Director

Date: January 27, 2016

RE: House Bills 5070 – 5073 - Franchise Clarification

We are writing to ask your support for House Bills 5070, 5071, 5072 and 5073. These bills, along with previously passed Senate Bills 492 and 493, would amend existing MIOHA, Unemployment Insurance and Wage and Hour laws to clarify that franchisors and franchisees are treated as separate businesses under Michigan law.

As we testified in front of this Committee on October 7, 2015, this legislation is necessary because of a recent ruling by the NLRB (National Labor Relations Board) that changed current law (known as the "joint employer rule") as regards the relationship between employers, franchise arrangements and independent contractors.

On August 27, 2015 the National Labor Relations Board (NLRB) issued a radical reconstruction of the "joint employer rule" that expanded the definition of a joint employer to include a franchisee's national brand even in areas where the franchisor does not exercise direct control over employees of the franchisee. This action will destroy the franchise model leading to industry consolidation, store closures, a loss of jobs and economic activity and entrepreneurial investment. For the labor unions and the Obama administration that sought this result, it will make it easier for big labor unions to strike and organize franchise business employees and small independent businesses.

NFIB supports the Michigan legislature in taking preemptive action with these bills to be sure that, in matters of state law, this ruling by the NLRB will not affect the traditional and correct interpretation of the employer and employee relationship that has governed franchise law in our state for decades.

Again, we urge you to report out House Bills 5070, 5071, 5072 and 5073 for further action on the Senate floor.

Thank you for your support of small business!